IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

FRIDAY, THE ELEVENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT APPEAL NO : 474 of 2003

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 11.2.2003 made in WP NO : 6356 OF 1999 on the file of the High Court.)

Between:

1. Municipal Commissioner, Municipal Corporation

of Hyderabad, near Hussain Sagar, Tank Bund, Hyd.

2. Additional Municipal Commissioner,

(Municipal Corporation of Hyderabad)

Secunderabad Division, Secunderabad.

3. Additional City Planner, Officer of the Municipal

Corporation of Hyderabad, Secunderabad Division,

Secundeabad.

..... APPELLANT

(Respondent Nos 2 to 4)

AND

1. Ravindrakumar Kimtee, S/o late S.R.Kimtee,

aged about 53 years, Business, R/o 8-2-686, Road No.12,

Banjara Hills, Hyderbad-500 034.

2. Ashok Kumar Kimtee, s/o late S.r.Kimtee,

aged about 50 years, Occ. Business,

R/o 4-5-120, Hashnatgunj, Sultan bazaar, Hyderabad.

3. Smt.Archana Rani, W/o Kesri Mal Roonwal, aged

about 26 years, House wife, R/0 4-5-171, Sultan Bazar, Hyd.

4. Devender Kumar Kimtee, s/o late S.R.Kimtee, aged about 55 years,

Business, R/o 4-5-171, Hashmatgunj, Sultan Bazar, Hyderabad.

5. Government of A.P. rep by its Secretary,

Municipal Administration Department, Secretariat Buildings,

Hyderabad.

6. Hyderabad Urban Development Authority (HUDA) rep. By

its Vice Chairman, Begumpet, Hyderabad.

...RESPONDENTs

Counsel for the Appellants : Smt. Jyothi Kiran
Counsel for the Respondent Nos. 1 to 4: Mr.Vedula Srinivas
Counsel for Respondent No.5 : G.P. for Municipal Administration
Counsel for Respondent No.6: Mr.B.Viswanath Reddy

Review W.A.M.P. NO.3662 OF 2004

Ashok Kumar Kimtee, S/o late S.R.Kimtee,

Aged about 50 years, Occ. Business,

R/o 4-5-120., Hashnatgunj, Sultan Bazar, Hyderabad.34

.. **Petitioner/2nd Respondent**

and

1. Municipal Commissioner, Municipal Corporation

of Hyderabad, near Hussain Sagar, Tank Bund, Hyd.

2. Additional Municipal Commissioner,

(Municipal Corporation of Hyderabad)

Secunderabad Division, Secunderabad.

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7. Government of A.P. rep by its Secretary,

Municipal Administration Department, Secretariat Buildings,

Hyderabad.

8. Hyderabad Urban Development Authority (HUDA) rep. By

its Vice Chairman, Begumpet, Hyderabad.

.. Respondents

Counsel for the petitioner : Mr.Vedula Srinivas

Counsel for Respondents 1 to 3: Ms.Jyothi kiran

Counsel for Respondents 4 to 6: Mr.B.V.Ram Mohan

Counsel for Respondent No.7 : G.P for Municipal Administration

Counsel for Respondent No.8: Mr.B.Viswanath Reddy

To review the judgment in WAMP No.2627/2004 in WA No.474/2003 dated 4.11.2004 rendered by Hon'ble Mr.Justice Sri Devinder Gupta, the Chief Justice and Hon'ble Mr.Justice C.V.Ramulu and to allow the writ appeal.

The Court at the admission stage made the following :

ORAL ORDER: (Per the Hon'ble the Chief Justice)

With the consent of the parties, we have taken up the writ appeal itself for hearing. This writ appeal by the Municipal Commissioner, Municipal Corporation of Hyderabad and others is directed against the order dated 11.2.2003 passed in W.P.No.6356 of 2004 by the learned single Judge disposing of the writ petition. The writ petitioners had questioned the issuance of a press note dated 14.3.1996 given by the official respondents under the heading ' MCH caution'. The learned single Judge held that issuance of such notice was not warranted in law and it was arbitrary. Therefore, the writ petition was allowed. But, while allowing the writ petition, costs of Rs.25,000/- were imposed in order to mitigate the injury alleged to have been suffered by the writ petitioners. The Municipal Corporation was also directed, within a week from the date of receipt of the writ order, to issue a press note withdrawing the caution notice earlier issued by it. While admitting the appeal, an interim order was passed that subject to the Municipal Corporation withdrawing the press note dated 14.3.1996, the appeal is admitted for hearing and that remaining part of the order shall remain suspended.

The Municipal Corporation has since issued a press note withdrawing the earlier notification. Insofar as the imposition of costs is concerned, it is in the nature of damages imposed on the appellant for the injury alleged to have been suffered by the writ petitioners. In the absence of proof of nature of injury suffered by the writ petitioners, it was not appropriate for the learned single Judge to have imposed damages though it was permissible for the Court to have imposed costs on the Court coming to a conclusion that the Municipal Corporation unnecessarily invited the writ petition. The order imposing damages of Rs.25,000/- is bad in law and is liable to be set aside. The appeal is accordingly allowed and the order levying damages on the Municipal corporation of Rs.25,000/- is set aside.

As a result of the allowing of the writ appeal, we also make it clear that insofar as the writ petitioners or other similarly situated persons who apply for building permissions are concerned, the permissions shall be strictly considered in accordance with law and the Municipal Corporation cannot and shall not reject it on the ground that the writ appeal was pending in this Court. The Review WAMP is accordingly ordered.

(DEVINDER GUPTA, CJ)

Dated 11..02..2005

(C.V.RAMULU,J)

msv.